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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,122	06/25/2001	Shohei Tanaka	Q64929	2326

7590 09/30/2003  
Sughrue Mion Zinn Macpeak & Seas  
2100 Pennsylvania Avenue NW  
Washington, DC 20037

EXAMINER

HUI, SAN MING R

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 09/30/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/869,122

Applicant(s)

TANAKA ET AL.

Examiner

San-ming Hui

Art Unit

1617

--The MAILING DATE of this communication appears in the cover sheet with the correspondence address --

THE REPLY FILED 02 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
- 2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

- 3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
- 4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 5.  The a)  affidavit, b)  exhibit, or c)  request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
- 6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- 7.  For purposes of Appeal, the proposed amendment(s) a)  will not be entered or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: None.

Claim(s) objected to: 15-17.

Claim(s) rejected: 14.

Claim(s) withdrawn from consideration: None.

- 8.  The proposed drawing correction filed on \_\_\_\_\_ is a)  approved or b)  disapproved by the Examiner.
- 9.  Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 10.  Other: \_\_\_\_\_

  
SREENI PADMANABHAN  
PRIMARY EXAMINER 9/26/03

Continuation of 5. does NOT place the application in condition for allowance because: First of all, the examiner did not mention if the claims are amended to the treatment of treating multiple myeloma, then it will be in condition of allowance. As evidence in the later office action, mailed in June, 2003 and December, 2002, the issue is not only whether the claims herein recite such limitation or not. For example, the broadest claim 14 does not recite any specific dosage nor route of administration. IN the response filed September 2, 2003 applicant argues the dosage or concentration taught in the cited prior art would not make a case of obviousness. Such argument is found persuasive; however, the broadest claim 14 does not recite any specific dosage nor the route of administration. Therefore, without such recitation, the cited prior art would still render the herein claimed invention obvious. For claims 15-17, they are objected as they are depending from a rejected claim. Claims 15-17 will be in condition of allowance if they are rewritten to independent form. .